

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

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WILLIAM GIBLIN,

**COMPLAINT**

Plaintiff,

v.

Civil Action No.

MALCOLM S. GERALD AND  
ASSOCIATES, INC.,

Defendant.

**JURY TRIAL DEMANDED**

FILED: JUN 6, 2008

08CV3282

JUDGE KENDALL

MAGISTRATE JUDGE DENLOW

RCC

**COMPLAINT**

**I. INTRODUCTION**

1. This action is brought by Plaintiff William Giblin for statutory damages against Defendant Malcolm S. Gerald and Associates, Inc. for violations of the Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692 et seq. (hereinafter referred to as "FDCPA"), which prohibits debt collectors from engaging in abusive, deceptive, and unfair practices.

**II. JURISDICTION**

2. Jurisdiction of this court arises under 15 U.S.C. § 1692k(d) and 28 U.S.C. § 1331. Venue is proper in this district as all relevant events took place here.

**III. PARTIES**

3. Plaintiff William Giblin is an individual who resides in Darien, Illinois.
4. Mr. Giblin is a consumer as defined by the FDCPA, 15 U.S.C. § 1692a(3).
5. Defendant Malcolm S. Gerald and Associates, Inc. ("MSG") is a corporation

organized under the laws of the State of Illinois located at 332 South Michigan Avenue, Suite 600, Chicago, Illinois.

6. MSG is engaged in the collection of debts from Illinois consumers using the mail and telephone.

7. MSG regularly attempts to collect consumer debts alleged to be due to another.

8. MSG is licensed by the State of Illinois as a Collection Agency, License Number 017000009.

9. MSG was and is a "debt collector" as defined by the FDCPA, 15 U.S.C. §1692a(6).

#### **IV. FACTUAL ALLEGATIONS**

10. On or about May 13, 2007, Mr. Giblin sought medical treatment and/or services from Adventist LaGrange Memorial Hospital.

11. Due to the medical treatment and/or services provided by Adventist LaGrange Memorial Hospital, Mr. Giblin incurred an alleged debt in the amount of \$2,645.91 to Adventist LaGrange Memorial Hospital (hereinafter referred to as "the Debt").

12. The Debt was incurred for personal, family, or household purposes, *i.e.*, for medical services and/or treatment.

13. Mr. Giblin did not pay the Debt because it was covered by his employer's workers' compensation insurance.

14. The Debt was due on the date of service.

15. MSG obtained the Debt after it allegedly entered default.

16. MSG obtained the Debt on or around October 31, 2007.

17. On or about October 31, 2007, MSG arranged for the preparation and transmittal of a letter to Mr. Giblin at his residence in an attempt to collect the Debt. MSG's October 31, 2007, correspondence to Mr. Giblin is attached hereto as Exhibit A.

18. Exhibit A contains:

Account #: 5846672  
File #: 052  
Creditor: ADVENTIST LA GRANGE MEM HOSP  
Balance Due: \$2,645.91  
M. S. G. #: 4169622

19. Exhibit A states, "All collection activity will be stopped if payment in full is sent to this office. Please enclose the payment with the bottom portion of this letter."

20. On or about October 31, 2007, MSG arranged for the preparation and transmittal of a second letter to Mr. Giblin at his residence in an attempt to collect the Debt. MSG's second October 31, 2007, correspondence to Mr. Giblin is attached hereto as Exhibit B.

21. Exhibit B contains:

Account #: 5846672  
File #: 054  
Creditor: ADVENTIST LA GRANGE MEM HOSP  
Balance Due: \$2,645.91  
M. S. G. #: 4169623

22. Exhibit B states, "All collection activity will be stopped if payment in full is sent to this office. Please enclose the payment with the bottom portion of this letter."

23. Exhibit B reflects different "File" and "M. S. G." numbers than Exhibit A.

24. Mr. Giblin incurred a debt in the amount of \$2,645.91 for the medical treatment and/or services provided by Adventist LaGrange Memorial Hospital on May 13, 2008.

25. MSG attempted to collect two debts in the amount of \$2,645.91 from Mr. Giblin

for the medical treatment and/or services provided by Adventist LaGrange Memorial Hospital on May 13, 2008.

26. MSG attempted to collect \$5,291.82 from Mr. Giblin for the medical treatment and/or services provided by Adventist LaGrange Memorial Hospital on May 13, 2008.

**V. COUNT ONE – FAIR DEBT COLLECTION PRACTICES ACT**

27. Plaintiff repeats, realleges, and incorporates by reference the foregoing paragraphs.

28. Defendant's violations of the FDCPA include, but are not limited to:

- A. using any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer in violation of 15 U.S.C. §§ 1692e and e(10);
- B. falsely representing the character, amount, or legal status of any debt in violation of 15 U.S.C. § 1692e(2)(A); and
- C. attempting to collect a debt not owed by Mr. Giblin in violation of 15 U.S.C. § 1692f and f(1).

29. As a result of Defendant's violations of the FDCPA, Plaintiff is entitled to an award of statutory damages, costs and reasonable attorney fees.

**VI. REQUEST FOR RELIEF**

WHEREFORE, Plaintiff William Giblin requests that judgment be entered in his favor against Defendant Malcolm S. Gerald and Associates, Inc. for:

- A. Statutory damages pursuant to 15 U.S.C. § 1692k(a)(2);
- B. Costs and reasonable attorney fees pursuant to 15 U.S.C. § 1692k(a)(3);  
and
- C. For such other relief as the Court may find to be just and proper.

**VII. JURY DEMAND**

Plaintiff William Giblin hereby demands that this case be tried before a Jury.

s/ Craig M. Shapiro  
Craig M. Shapiro  
O. Randolph Bragg  
HORWITZ, HORWITZ & ASSOCIATES, LTD..  
25 East Washington Street Suite 900  
Chicago, Illinois 60602  
(312) 372-8822  
(312) 372-1673 (Facsimile)

ATTORNEYS FOR PLAINTIFF WILLIAM GIBLIN

## **EXHIBIT A**

P.O. Box 1259  
Oaks PA 19456



**Malcolm S. Gerald and Associates, Inc.**  
332 South Michigan Avenue, Suite 600  
Chicago, Illinois 60604  
312-922-6500 Fax 312-922-7869  
800-265-3796  
Mon, Thurs 8AM-8PM Tues, Wed, Fri 8AM-5PM

10/31/07

WILLIAM GIBLIN  
GIBLIN, WILLIAM  
1610 DURHAM CT APT C  
DARIEN IL 60561-5901

1503-796

Account #: 5846672  
File #: 052  
Creditor: ADVENTIST LA GRANGE MEM HOSP  
Balance Due: \$2,645.91  
M. S. G. #: 4169622

Our client has submitted your account to us for collection.

All collection activity will be stopped if payment in full is sent to this office. Please enclose the payment with the bottom portion of this letter.

We are willing to cooperate with you in resolving this account.

This communication is from a debt collector. This is an attempt to collect a debt. Any information obtained will be used for this purpose.

Make check payable to: Malcolm S. Gerald and Associates, Inc.

See Reverse Side For Important Information

Please tear along the fold and return this portion with your payment.

Account #: 5846672  
File #: 052  
Creditor: ADVENTIST LA GRANGE MEM HOSP  
Balance Due: \$2,645.91  
M. S. G. #: 4169622

IF PAYING BY VISA OR MASTERCARD, FILL OUT BELOW		
<input type="checkbox"/> VISA		<input type="checkbox"/> MASTERCARD
CARD NUMBER	EXP. DATE	AMOUNT
SIGNATURE		MUST INCLUDE 3 DIGIT SECURITY CODE FROM BACK OF CARD
CARDHOLDER'S NAME		

WILLIAM GIBLIN  
GIBLIN, WILLIAM  
1610 DURHAM CT APT C  
DARIEN IL 60561-5901

Malcolm S. Gerald and Associates, Inc.  
332 South Michigan Avenue, Suite 600  
Chicago, Illinois 60604



## **EXHIBIT B**



P.O. Box 1259  
Oaks PA 19456



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1503-797

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